

NATIONAL DIGITAL IDENTIFICATION BILL 2023

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

1.1 The Bill seeks to provide a national digital identification system for the protection of personal data associated with such system and for related purposes.

1.2 The object of the Bill is to:

- (a) to provide a modern digital identification system for the registration of citizens and residents of Samoa;
- (b) to provide a digital, unique and legally recognised identity for a registered person in the system; and
- (c) to provide a function for authentication of a registered person, while protecting personal data associated with the system.

2.0 Clauses:

PART 1 - PRELIMINARY

Clause 1: - provides for the short title and commencement. The Act will be cited as the National Digital Identification Act 2023 and will commence on the date of assent by the Head of State, except for Parts 3 and 6 which will commence on a separate date to be nominated by the Minister.

- Clause 2:** - provides for the definitions of terms used in the Bill.
Clause 3: - sets out the objectives of the Bill.

PART 2 - ADMINISTRATION

- Clause 4:** - establishes the National Digital Identification System (“NDIDS”) which comprises of the electronics database for the civil registration system, the Identity database in accordance with Part 5 and the Biometric Database and authentication processes in accordance with Part 6 of the Bill, and their overall interoperability.
- Clause 5:** - provides for the Registrar General to administer the Act and in doing so, has the powers conferred by this Act and the *Births, Deaths and Marriages Registration Act 2002* only and cannot exercise his or her powers as the Government Statistician in the carriage of his or her duties as the Registrar General.
- Clause 6:** - provides that the Registrar General may appoint Assistant Chief Executive Officers and Senior Officers of the Bureau for the effective and efficient administration of this Act and the *Births, Deaths and Marriages Registration Act 2002*, and power of Registrar General to delegate powers (other than this power), functions and duties to those officers.

- Clause 7:** - clarifies that in this Act, the *Public Service Act 2004* applies to the Registrar General and the Bureau and its officers as if the Bureau were a Ministry.
- Clause 8:** - establishes the National Identification Advisory Board (“Board”). It also sets out the composition of the Board, the criteria that applies to the selection of the members Board, their entitlement to fees and allowances as determined by Cabinet and circumstances that cause the office of a member to become vacant.
- Clause 9:** - provides for the functions of the Board.
- Clause 10:** - provides for the meetings of the Board and the rules to apply to those meetings. It further provides the Board a power to appoint with a term of reference, any committee to provide advice on any matter relevant under this Act.
- Clause 11:** - provides for the functions of the Registrar General under this Act.
- Clause 12:** - provides for matters the Registrar General may carry out in the performance of functions under this Act.
- Clause 13:** - provides for the establishment of service centres by the Registrar General to cater for the purpose of activities under this Act, the *Births, Deaths and Marriages Registration Act 2002* and statistical activities *under the Statistics Act 2015*.
- Clause 14:** - provides for the preparation of a national plan and implementation by the Registrar General in consultation with Ministries, public bodies and private sector stakeholders.

- Clause 15:** - requires the Registrar General to monitor and regularly coordinate the ongoing coordination of the Bureau and other agencies with regards to the usage of the SDIN, associated tokens and authentication function of the NDIDS.
- Clause 16:** - sets out information to be included in the Annual Report as required to be prepared by the Registrar General under section 15 of the *Public Service Act 2004*.
- Clause 17:** - provides an exemption from liability for the Registrar General and the Bureau for any loss or damages resulting from any malfunction of the NDIDS or any human error, unless committed in bad faith or as a result of wilful misconduct or gross negligence.

PART 3 - REGISTRATION

- Clause 18:** - sets out who is an eligible person for registration in the NDIDS under this Act and the obligation of the Registrar General to ensure all eligible persons are registered in the mass registration.
- Clause 19:** - provides for matters relevant to the registration process for both the eligible person and the Registrar General to comply with:
- (a) that an eligible person must submit to the Registrar General a biographical data for inclusion in the identity database and subject to whether a person is above 18 years of age, to provide a biometric data for registration to the National Digital Identification System;

- (b) prohibits the Registrar General from collecting any biometric data of a person below 18 years of age;
- (c) the official documents such as a birth certificate and passport must be requested by the Registrar General and accepted by the Registrar General as evidence of a person's identity;
- (d) the Registrar General's responsibility to verify documents received during the registration process and subsequently record the information on the relevant database with an assigned Samoa Digital Identification Number ("SDIN") to the individual;
- (e) the Registrar General to allow other alternatives for registering eligible persons with physical impairment.

Clause 20: - provides for the Registrar General to plan and implement a mass registration for eligible persons under this Act.

Clause 21: - provides for the registration of any child who is born after the mass registration. It also states that for a child who is born in a health care facility the Director General of Health must notify the Registrar General through the NDIDS notification system for registration, and for a child who is born outside of a health care facility, a Sui-Tamaitai o le Nuu, a Sui o le Nuu or Minister of religion shall notify the Registrar General through NDIDS notification system.

- Clause 22:** - provides for the continuous registration of eligible persons that were not registered in the mass registration under section 20 or the registration under section 21.
- Clause 23:** - provides for who can register an eligible person that is under the age of 18 years, a senior citizen with a disability, a person with a disability and any other category of persons as may be specified by the Registrar General. Those who are to register the eligible persons under this provision must comply with section 19(1) and (2).
- Clause 24:** - provides that the Registrar General shall provide special measures in the NDIDS and service centres, to facilitate with provision of information, registration and issuance of ID credentials for the eligible persons referred to in section 23.
- Clause 25:** - details the information that the Registrar General can use to inform the eligible person or person acting on behalf of the eligible person processing their personal data before registering.

PART 4 - CIVIL REGISTRATION SYSTEM AND PASSPORT SYSTEM

- Clause 26:** - provides for the responsibility of the Registrar General and the Chief Executive Officer responsible under the *Passports Act 2008* to arrange for the integration or interoperability of the Civil Registration System and the Passport System as required by relevant bodies.

PART 5 - IDENTITY DATABASE

- Clause 27:** - establishes the Identity Database, its purpose under this Act and the types of data to be included in digital form in this Identity Database.
- Clause 28:** - provides for the sources which the Registrar General may use to obtain and verify the data about individuals in the Identity Database.
- Clause 29:** - sets out the use of data in the Identity Database to enable relying parties to identify and authenticate registered persons, the process to be taken by the Registrar General when a request is made by relying parties and the purposes provided for the Registrar General to access the same subject to this Act and Regulations made under the Act.
- Clause 30:** - provides for the responsibility of the Registrar General to arrange easily accessible ways for a registered person to update his or her correct biographical and biometric data and for the registered person and the Registrar General to ensure to keep the biographical and biometric data up to date.

PART 6 - IDENTIFICATION AND AUTHENTICATION

- Clause 31:** - provides for the Registrar General's responsibility to assign a Samoa Digital Identification Number and on his or her discretion issue a token associated with the Samoa Digital Identification Number to each registered individual upon registration under Part 3 of this Act.
- Clause 32:** - provides for the grounds in which the Registrar General may deactivate a registered person's Samoa Digital Identification Number and associated token.
- Clause 33:** - provides that subject to authentication under Part 6, all Ministries and public bodies and private sectors, banks, other financial institutions and any other entities required by law or regulation to identify and authenticate individuals, to accept the Samoa National Identification Number and associated token as sufficient proof of identity of the registered person for their respective purposes.
- Clause 34:** - provides that ID credentials may only be issued by the Registrar General to a registered person if they are 18 years and above. It also details a list of data that may be displayed on the ID credential and matters such as risk, protection of privacy and security of data to be considered by the Registrar General when dealing with items of data that may be stored electronically on ID credentials.
- Clause 35:** - provides for the registered person's responsibility in keeping both the physical and digital ID credentials safe and secure.

- Clause 36:** - provides for the grounds to cancel an ID credential.
- Clause 37:** - provides for the establishment of procedures and operation of authentication functions in the NDIDS by the Registrar General.
- Clause 38:** - provides for the establishment and maintenance of the Biometric Database by the Registrar General for the purpose of authentication in accordance with this Act.
- Clause 39:** - provides that the access and use of the authentication function of the NDIDS by the relying parties is only on the consent of the registered persons.
- Clause 40:** - provides for the eligibility of entities and natural persons to be relying parties.
- Clause 41:** - requires the relying parties to report to the Registrar General on a regular basis and comply with their obligations under Parts 6, 7 and 8 of this Act. It also provides for the grounds for the Registrar General to consider in suspending or terminating with or without notice the right of a relying party to access the authentication function of the NDIDS or any data in the Identity Database.
- Clause 42:** - provides for the responsibility of the Registrar General to determine the data processed by relying parties for authentication of an individual in the NDIDS.

- Clause 43:** - provides for the duty of relying parties to disclose to the individual, information regarding authentication before an authentication request is initiated.
- Clause 44:** - requires the Registrar General to establish reasonable alternative procedures to apply in an instance where a failure of the NDIDS or the recording or transmission of biometric or biographic data may occur. This will also ensure that individuals and relying parties shall not be prejudiced if they are unable to use the Samoa Digital Identification Number, ID credential, authentication or biometric or biographical data.

PART 7 - PROTECTION AND MANAGEMENT OF DATA

- Clause 45:** - sets out the Registrar General and relying parties' responsibilities to ensure personal data collected and processed in connection with this Bill are safely stored and used for the purposes specified under this Bill.
- Clause 46:** - provides for the appropriate measures to be taken and matters to be taken into account by the Registrar General, relying parties and data processors to ensure the security, integrity and confidentiality of personal data in their possession.

- Clause 47:** - provides for the responsibility of a data processor to notify the Registrar General or the relying party within 72 hours of becoming aware of the breach of personal data that has occurred.
- Clause 48:** - provides for the responsibility of a relying party to notify the Registrar General within 72 hours of becoming aware of the breach of personal data that has occurred.
- Clause 49:** - provides for the responsibility of the Registrar General to notify through direct or public communication to the registered person without undue delay once the Registrar General is aware of the breach of personal data of that registered person has occurred and advise measures to be taken. It also sets out that a data breach under sections 47, 48 and this clause must be reported to the Identification Advisory Board by the Registrar General.
- Clause 50:** - provides for the additional requirements relating to notifications and records of personal data breaches under clauses 47, 48 and 49.

PART 8 - REGISTERED PERSON'S RIGHTS

- Clause 51:** - provides for the rights of the registered persons to obtain from the Registrar General or a relying party information about the storing, processing and accessing of personal data relating to them.
- Clause 52:** - provides that a registration on the NDIDS, being issued a Samoa Digital Identification Number, a token or an ID credential does not confer a right of a person who is a non-citizen a Samoan citizenship.

PART 9 - GRIEVANCES

- Clause 53:** - provides for the right of a registered person to lodge a grievance with the Registrar General and the process for lodging and determining such grievance are to be prescribed by regulations.

PART 10 - MISCELLANEOUS

- Clause 54:** - provides for a general penalty imposed on relying parties and data processors on failing to comply with any provision and any regulations made under this Bill.

- Clause 55:** - provides for the offence of personation and penalty for such offence.

- Clause 56:** - provides that it is an offence for employees or those otherwise contracted by the Bureau, relying parties and data processors to disclose to a person not authorised under this Bill, any personal data processed in the course of registration or authentication.

- Clause 57:** - provides that it is an offence for an unauthorised person to access, tamper and damage any personal data under this Bill.

- Clause 58:** - provides for the penalties imposed for an offence committed under clause 55, 56 or 57 and further provides for general penalties for an offence which no specific penalties is provided for under the Act or regulations.

- Clause 59:** - empowers the Head of State on the advice of Cabinet to make regulations to give effect to the Bill.
- Clause 60:** - sets out consequential amendments to the *Births, Deaths and Marriages Registration Act 2002*, *Statistics Act 2015* and the *Tax Administration Act 2012*.



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(Hon LEOTA Laki Lamositele)

**MINISTER FOR WOMEN, COMMUNITY AND SOCIAL
DEVELOPMENT AND MINISTER RESPONSIBLE
FOR THE SAMOA BUREAU OF STATISTICS**

NATIONAL DIGITAL IDENTIFICATION BILL 2023

SAMOA

Arrangement of Provisions

PART 1

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Objectives

PART 2

ADMINISTRATION

4. National Digital Identification System
5. Registrar General to administer this Act
6. Appointment of Assistant Chief Executive Officer and Senior Officers and delegation of powers
7. Application of the Public Service Act 2004
8. National Identification Advisory Board

9. Functions of the National Identification Advisory Board
10. Meetings and committees
11. Functions of the Registrar General
12. Performance of the Registrar General functions
13. Service centres
14. National plan for implementation
15. Ongoing coordination with other agencies
16. Annual report
17. Liability

**PART 3
REGISTRATION**

18. Eligible person
19. Registration
20. Mass registration
21. Registration at birth
22. Continuous registration
23. Registration of children, people with disabilities, senior citizens and certain other persons
24. Special measures
25. Information about processing of an individual's personal data

**PART 4
CIVIL REGISTRATION SYSTEM
AND PASSPORT SYSTEM**

26. Interoperability and integration

PART 5
IDENTITY DATABASE

27. Identity Database
28. Sources of data in the Identity Database
29. Use of and access to data in the Identity Database
30. Updating biographical and biometric data

PART 6
IDENTIFICATION AND AUTHENTICATION

31. Samoa Digital Identification Number and tokens
32. Deactivation of SDINs and tokens
33. Status of the SDIN and associated token
34. ID credential
35. Registered person's responsibility for the ID credential
36. Cancellation of ID credentials
37. Authentication function
38. Biometric database
39. Use of authentication
40. Relying parties
41. Relying party compliance with this Act
42. Exchange of data for authentication
43. Information about authentication
44. Alternative procedures

PART 7
PROTECTION AND MANAGEMENT OF DATA

- 45. Data storage and usage
- 46. Security, integrity and confidentiality
- 47. Notification by data processors of personal data breaches
- 48. Notification by relying parties of personal data breaches
- 49. Notification by the Registrar General of personal data breaches
- 50. Requirements as to notifications and records of personal data breaches

PART 8
REGISTERED PERSON'S RIGHTS

- 51. Rights of registered persons
- 52. No right of citizenship

PART 9
GRIEVANCES

- 53. Grievances

PART 10
MISCELLANEOUS

- 54. Non-compliance by relying parties and data processors
- 55. Personation
- 56. Unauthorised disclosure of data
- 57. Unauthorised access, tampering and damage
- 58. Penalties

- 59. Regulations
- 60. Consequential amendments

2023, No.

A BILL INTITULED

AN ACT to provide for a national digital identification system, for protection of personal data associated with such system, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
PRELIMINARY**

1. Short title and commencement:

- (1) This Act may be cited as the National Digital Identification Act 2023.
- (2) This Act commences on the date of assent by the Head of State, except for Parts 3 and 6 which commence on a separate date to be nominated by the Minister.

2. Interpretation:

In this Act, unless the context otherwise requires:

- “authentication” refers to the process by which the NDIDS confirms the identity of a registered person to a relying party;
- “binding corporate rules” means personal data protection policies and procedures adhered to by the members of a group of firms under common control with respect to the transfer of personal data among such members and containing provisions for the protection of such personal data;
- “biographical data” means personal data relating to the name, date of birth, address and other aspects of the life of a person, excluding biometric data;
- “biometric data” means photographic facial images, fingerprints and specimen signatures;
- “Biometric Database” means the electronic database established to hold and process biometric data for purposes of authentication under this Act as further provided in section 38;
- “Bureau” has the same meaning given to it under the Statistics Act 2015;
- “civil registration system” means the electronic database of the Register of Births, Deaths and Marriages, as specified more particularly in section 4(a);
- “Civil societies” means the wide array of non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations;

“consent” means any freely given, specific, informed, and unambiguous indication, whether by a written or oral statement or an affirmative action, of an individual’s agreement to the given matter, including in relation to another individual for whom he or she has the authority to provide such consent;

“data processor” means an individual, private entity, public authority or agency or any other body who or which processes personal data on behalf of the Registrar General or a relying party;

“eligible person” is a person eligible to be registered in the NDIDS under section 19;

“ID credential” means:

- (a) a physical ID card issued by the Bureau that displays the information provided for under this Act;
- (b) a symbol provided by the Bureau that encodes such information in a manner readable by an electronic scanning device; or
- (c) an application installed on a personal communications device such as a mobile phone that contains such information in a form stipulated by the Bureau and readable by another device.

“identification” means the association of a person with, or specification of a person by reference to, his or her related SDIN, token or ID credential;

“Identity Database” means the register established under section 27;

“National Identification Advisory Board” or “Identification Advisory Board” means the Board established under section 8;

- “mass registration” means the process to register all eligible persons in the NDIDS over a period of time, as specified under section 20;
- “Minister” means the Minister responsible for the administration of this Act;
- “Ministry” means a Ministry specified under the Ministerial and Departmental Arrangements Act 2003 or a service of the Government, and includes a constitutional authority or a Ministry established by an Act;
- “National Digital Identification System” or “NDIDS” means the National Digital Identification System established under section 4;
- “personal data” means biographical data and biometric data and any other data relating to a person who can be identified or is identifiable, directly or indirectly by reference to such data;
- “personal data breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data;
- “processing” means any operation or set of operations which is performed on personal data, whether or not by automated means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- “public body” has the same meaning under section 2 of the Public Bodies (Performance and Accountability) Act 2001;

“registered person” is a person who has been registered in the NDIDS;

“registration” means the process by which the prescribed biographical and certain other personal data about an eligible person is recorded in the Identity Database and a SDIN is issued to that person;

“Register of Births, Deaths and Marriages” is the Register operated by the Registrar General under the Births, Deaths and Marriages Registration Act 2002;

“Registrar General” means the Registrar General under the Births, Deaths and Marriages Registration Act 2002;

“relying party” means any government ministry, department or agency of the Government of Samoa or local authority, or any legal entity or any person that is registered with the Registrar General as such and is entitled to rely on the NDIDS for authentication of a registered person;

“resident of Samoa” or “resident” means a person who is a non-citizen and who is lawfully permitted to reside in Samoa under a relevant law;

“Savali” has the same meaning under section 3 of the Acts Interpretations Act 2015;

“SDIN” means the Samoa Digital Identification Number, a unique number issued by the Bureau to each registered person, as specified under section 32;

“Statistics Advisory Board” means the Board established under section 10 of the Statistics Act 2015;

“token” means a unique number that is exclusively associated with an SDIN and that is issued by the Bureau to a registered person under section 32 and may be used in lieu of the SDIN in accordance with this Act.

3. Objectives:

The objectives of this Act are:

- (a) to provide a modern national digital identification system for the registration of a citizen and a resident of Samoa;
- (b) to provide a digital, unique, legally recognised identity for a registered person; and
- (c) to provide a function for authentication of a registered person, while protecting personal data associated with the system.

PART 2 ADMINISTRATION

4. National Digital Identification System:

The National Digital Identification System (“NDIDS”) is established comprising the following elements and interoperability among them:

- (a) the electronic database of the Register of Births, Deaths and Marriages and the associated systems for notification and registration, which are referred to together as the civil registration system;
- (b) the Identity Database, a system for identification and authentication comprising SDIN, ID credentials, established under section 27, holding biographical data about registered person received in connection with their registration and from the civil registration system in accordance with Part 5; and

- (c) the Biometric Database and authentication processes and records in accordance with Part 6.

5. Registrar General to administer this Act:

- (1) The Registrar General is responsible for the general administration of this Act.
- (2) In the administration of this Act, the Registrar General has the powers conferred by this Act and the Births, Deaths and Marriages Registration Act 2002 only and cannot exercise his or her powers as the Government Statistician in the carriage of his or her duties as the Registrar General.

6. Appointment of Assistant Chief Executive Officer and Senior Officers and delegation of powers:

- (1) The Registrar General may appoint such officers of the public service or of the Bureau either by name or by office designation to be one or more Assistant Chief Executive Officers or such officers as may be desirable for the effective and efficient administration of this Act and the Births, Deaths and Marriages Registration Act 2002.
- (2) Subject to the control of the Registrar General, the Registrar General may delegate powers (other than this power), functions, and duties to an Assistant Chief Executive Officer or any officer appointed under subsection (1).
- (3) Subject to this Act, an officer appointed under subsection (1) must exercise and perform powers, functions, and duties under this Act and under the directions of the Registrar General.

7. Application of the Public Service Act 2004:

Except as otherwise provided in this Act, the Public Service Act 2004 applies to the Registrar General and the Bureau and its officers as if the Bureau were a Ministry.

8. National Identification Advisory Board:

- (1) The National Identification Advisory Board is established consisting of the following members:
 - (a) a Chairperson appointed by the Head of State upon the advice of Cabinet;
 - (b) the Registrar General or his or her representative; and
 - (c) not less than three (3) and not more than five (5) members.
- (2) The members referred to in subsection (1)(c) are appointed by the Head of State on the advice of Cabinet for a term of two (2) years and are also eligible for reappointment.
- (3) The following criteria applies to the selection of members for the Identification Advisory Board:
 - (a) a member experienced in and concerned with digital identification, digital services, public services, financial services, protection of personal data and consumer protection, and together shall be broadly representative of Samoan society; and
 - (b) a person is disqualified from being appointed as a member if any of the following applies -
 - (i) under 21 years of age; or
 - (ii) an undischarged bankrupt; or
 - (iii) adjudged to be mentally defective under the Mental Health Act 2007; or

- (iv) disqualified from being a director under the Companies Act 2001, or disqualified previously under the Companies Act 1955; or
 - (v) is convicted in Samoa or elsewhere of an offence punishable by death or by imprisonment for a term of two (2) years or more; and
- (c) no person shall be appointed or reappointed or continue as a member if such person or his or her immediate family member is an employee, director or shareholder of another body or institution whose business interest has or is likely to have a material conflict with the role and responsibilities of the Registrar General; and
- (d) no Member of Parliament shall be a member or be reappointed as a member unless Cabinet has certified that such appointment or re-appointment, as the case may be, is necessary; and -
- (i) is in the national interest; and
 - (ii) that the Member of Parliament as the case may be, has particular qualifications or business experience which the Identification Advisory Board requires and such qualifications or business experience cannot be found elsewhere; and
- (e) other than the Registrar General, a member of the Statistics Advisory Board may not also be a member of the Identification Advisory Board.
- (4) A member of the Identification Advisory Board (except a member who is employed, under the Public Service Act 2004 or by a public body) is entitled to fees and allowances as determined by Cabinet.
- (5) The office of a member (other than the Registrar General) becomes vacant if the member:

- (a) is absent, for three (3) consecutive meetings of the Identification Advisory Board, without leave from the Identification Advisory Board;
- (b) is removed from office by the Head of State on the advice of Cabinet, for misconduct or incapacity proven to the Cabinet's reasonable satisfaction;
- (c) becomes a Member of Parliament (unless a certification from Parliament is obtained under subsection (2)(d); or
- (d) dies.

9. Functions of the National Identification Advisory Board:

- (1) The function of the National Identification Advisory Board is to advise the Minister and Registrar General on the following:
 - (a) the development and implementation of the NDIDS, and the priorities and programmes of activities and policies and guidelines to be adopted by the Registrar General;
 - (b) any deficiencies and potential improvements in the identification and authentication processes under this Act;
 - (c) cooperation, consultation and collaboration among the Registrar General, the Ministries, public bodies, civil societies and the private sector in the development and implementation of the NDIDS;
 - (d) efficient coordination of the respective technologies of the Ministries, public bodies, civil societies and the private sector in order to promote implementation and usage of the NDIDS;

- (e) the actual and perceived integrity and independence of, and public confidence and trust in, the NDIDS and the Registrar General;
 - (f) the promotion of an environment which is supportive of the registration of eligible persons in the NDIDS, and its adoption and utilisation for public services and by the private sector as appropriate;
 - (g) the maintenance of accuracy, relevance, integrity, timeliness, privacy, security and professional standards in relation to data processed by the NDIDS; and
 - (h) recommendations to Cabinet regarding any measures or amendments, to this Act, the Births, Deaths and Marriages Registration Act 2002, the Statistics Act 2015 and other related laws, as may be necessary.
- (2) The Registrar General must:
- (a) designate an officer of the Bureau as the Secretary of the Identification Advisory Board; and
 - (b) provide the Identification Advisory Board with resources as are necessary for the effective performance of its functions.
- (3) The Identification Advisory Board may issue public statements on any matter relating to its functions under this Act, after consultation with the Minister and any State entity or other person involved in, or affected by, the matter.

10. Meetings and committees:

- (1) The National Identification Advisory Board must meet at least once in every calendar year or more as necessary for the performance of its functions.
- (2) The meeting of the Identification Advisory Board may be convened by the Chairperson or must be called by the Secretary if requested by three (3) members.
- (3) Unless a member affected agrees otherwise, members must be given five (5) working days' notice of any meeting.
- (4) At a meeting of the Identification Advisory Board, the following rules apply:
 - (a) a quorum is constituted by at least four (4) of the members;
 - (b) the Chairperson, if present, must preside;
 - (c) if the Chairperson is absent, the members present must elect 1 of its members to preside;
 - (d) any question arising is to be determined by a majority of the votes of the members present; and
 - (e) the member presiding has a deliberative vote and a casting vote.
- (5) The Identification Advisory Board may regulate its own meetings procedures.
- (6) The Identification Advisory Board may appoint with a term of reference any committee to provide advice to it on matters relevant under this Act as follows:
 - (a) membership may include a person who is not a member of the Identification Advisory Board; and
 - (b) a member of such a committee is entitled to remuneration approved by Cabinet, except if the member is a public servant, an employee of a public body, constitutional appointee, or a Member of Parliament.

- (7) The Secretary must ensure that the minutes of meetings of the Identification Advisory Board are promptly and correctly signed by the Chairperson or the member presiding the meeting.

11. Functions of the Registrar General:

The Registrar General shall:

- (a) prepare and implement plans for the development and establishment of, and shall operate, the NDIDS;
- (b) establish, maintain and operate databases, data warehousing, networking, and interfacing and interoperability of databases and related facilities and services to support the functioning of the NDIDS;
- (c) implement appropriate technical and administrative measures to protect privacy and security of personal data held by the NDIDS and protect the NDIDS from cybersecurity risks and threats; and
- (d) carry out promotional activities and training to ensure the adoption and use of the NDIDS, including the SDIN, ID credentials, and the associated identification and authentication processes, across the Samoan economy and society.

12. Performance of the Registrar General functions:

In the performance of the functions under this Act, the Registrar General may:

- (a) incur any expenditure and procure equipment, supplies, services, computer software and hardware and any other materials, equipment and services; and

- (b) enter into and perform all such contracts as it may consider necessary or expedient including without limitation contracts for data processing and consultancy services;
- (c) acquire by purchase, lease, exchange or otherwise and dispose of by sale, lease, exchange or otherwise any movable, immovable or intellectual property or any interest in such property subject to relevant Government procedures and policies; and
- (d) do any other thing and exercise any other power supplemental, incidental or consequential to the above functions and powers including the power to take such measures and exercise such powers as the Registrar General considers necessary or expedient for carrying out the purposes of this Act.

13. Service centres:

- (1) The Registrar General shall establish service centres with necessary facilities at suitable locations for the purpose of its activities under this Act and the Births, Deaths and Marriages Registration Act 2002.
- (2) A service centre established under subsection (1) may be used for:
 - (a) receiving and disseminating information to the general public and to eligible persons about the NDIDS;
 - (b) receiving, updating and disseminating information for the purpose of registration, notification of SDINs, issuance of ID credentials, and authentication under this Act;
 - (c) receiving notifications and updated information, and delivering certificates, under the Births, Deaths and Marriages Registration Act 2002;

- (d) census and other statistical activities under the Statistics Act 2015 and the Births, Deaths and Marriages Registration Act 2002;
- (e) paying and receiving any fees under this Act or the Births, Deaths and Marriages Registration Act 2002 and other amounts relating to the other activities under this section;
- (f) answering relevant questions from the general public; and
- (g) any other purpose required for the Registrar General's functions under this Act, the Births, Deaths and Marriages Registration Act 2002, and the Registrar General's functions under the Statistics Act 2015.

14. National plan for implementation:

- (1) The Registrar General shall consult with a Ministry, public body, civil society and private sector stakeholders, and shall prepare a national plan for their respective:
 - (a) adoption and use of the SDIN or associated token in their systems and databases for identifying individuals to whom they provide services or with whom they otherwise transact; and
 - (b) use of the NDIDS for authentication of individuals in transactions requiring verification of an individual's identity and access to the Identity Database where appropriate.
- (2) The Registrar General shall submit the national plan under subsection (1) to the Minister for tabling before Cabinet for its approval.

- (3) All Ministries and public bodies, departments and agencies shall implement the national plan as approved by Cabinet.
- (4) Subject to subsection (5), the national plan shall address the adoption and use of the SDIN or associated token and where appropriate use of the NDIDS for authentication in relation to at least the following cases:
 - (a) passports, certificates of identity and documents of identity under the Passports Act 2008;
 - (b) driving licences under the Road Traffic Ordinance 1960;
 - (c) voter registration and transfer under the Electoral Act 2019;
 - (d) matters relating to taxation under the Tax Administration Act 2012;
 - (e) admission to government hospitals, health centres or clinics or similar institutions;
 - (f) enrolment in schools under the Education Act 2009 and in colleges, universities and other education institutions whether public or private; and
 - (g) opening of bank accounts and other significant transactions with banks and financial institutions.
- (5) The national plan shall ensure that no person shall be refused or significantly delayed access to the services under subsection (4) because he or she is not registered, or has not been assigned or otherwise cannot produce an SDIN, associated token or ID credential.

15. Ongoing coordination with other agencies:

The Registrar General shall monitor and regularly coordinate with a Ministry, a public body, civil society and a private sector with respect to:

- (a) their usage of the SDIN, associated tokens and authentication function of the NDIDS and access to the Identity Database;
- (b) the adoption, implementation and monitoring of good practices and appropriate standards for effective and efficient identification and authentication; and
- (c) the adoption and implementation and monitoring of appropriate data security and privacy policies and procedures.

16. Annual report:

- (1) The annual report required to be prepared by the Registrar General under section 15 of the Public Service Act 2004 must include the following:
 - (a) a description of the level of registration of eligible persons in the NDIDS in Samoa nationally and by region, the level of use of the NDIDS, and plans to achieve registration of all eligible persons;
 - (b) a statement of any advice from the Identification Advisory Board that has not been followed or implemented with reasons; and
 - (c) a general description of data security conditions of the NDIDS, and of any significant breach of protection of personal data and other obligations arising under this Act (but not so as to compound the breach).

- (2) The annual report required under this section, may be combined with the annual report prepared by the Bureau under the Statistics Act 2015 in a single annual report.
- (3) The annual report must be published on the Bureau's website and made available at its principal office within one (1) month after it is approved by the Minister, and it must remain available for at least five (5) years.

17. Liability:

The Registrar General and the Bureau shall not be liable to any individual, relying party or other third party for any loss or damages resulting from any malfunction of the NDIDS or any human error, including loss or damage resulting from an incorrect identification or authentication of an individual, unless such is committed in bad faith or the result of wilful misconduct or gross negligence.

PART 3 REGISTRATION

18. Eligible person:

- (1) A citizen of Samoa and a resident of Samoa is an eligible person for registration.
- (2) The Registrar General must ensure to register in the mass registration all eligible persons.

19. Registration:

- (1) An eligible person must submit to the Registrar General the following in order to register:

- (a) biographical data for inclusion in the Identity Database as provided in section 27; and
 - (b) subject to subsection (2), biometric data for inclusion in the Biometric Database as provided in section 38.
- (2) The Registrar General must not collect, and the NDIDS must not contain, any biometric data of any person below 18 years of age.
- (3) The Registrar General must request for any of the following official document and accept it as evidence of a person's identity when registering a person in the NDIDS:
 - (a) birth certificate issued under the Births, Deaths and Marriages Registration Act 2002 or issued by an appropriate authority overseas; or
 - (b) passport, certificate of identity or other document of identity issued under the Passports Act 2008 or issued by an appropriate authority overseas.
- (4) In the absence of any official document in subsection (3)(a) or (b), the Registrar General may accept any other official document issued by an appropriate authority in Samoa or overseas as evidence of a person's identity.
- (5) The Registrar General shall verify the validity, authenticity and accuracy of documentation and data received in the registration process and compare such data with data already recorded in the Identity Database and the Biometric Database with a view to ensuring with a high level of certainty that:

- (a) no individual is registered twice in the NDIDS;
 - (b) no individual has more than one (1) SDIN;
 - (c) no SDIN is assigned to more than one (1) individual; and
 - (d) no SDIN is assigned to non-citizen and non-resident of Samoa.
- (6) The Registrar General shall allow alternative means of registering eligible persons having a physical impairment that renders the capturing of required biometric data impossible as a practical matter.
- (7) After verifying the information under subsection (5), the Registrar General must:
- (a) record the biographical data in the Identity Database;
 - (b) record the biometric data in the Biometric Database; and
 - (c) assign to the individual an SDIN and an associated token and inform the individual of such SDIN and an associated token.
- (8) The Registrar General shall retain documents or copies submitted to it for the purpose of registration.
- (9) A person who supplies information required under subsection (1) that the person knows is wrong, incomplete or misleading, commits an offence and is liable on conviction to a fine not exceeding 20 penalty units.

- (10) If a person is convicted of an offence under subsection (8):
 - (a) the Court may order the person to perform his or her obligations fully and properly; and
 - (b) if the person fails to do so within the time specified by the Court, the person is in contempt of Court.

20. Mass registration:

- (1) The Registrar General shall plan and implement the mass registration.
- (2) The Registrar General shall, by notice in the Savali, designate the means and process by which and period during which the Registrar General shall carry out the mass registration.
- (3) Subject to section 23, any Samoan citizen, or resident of Samoa must take all the steps necessary to be registered in accordance with the notice under subsection (2).
- (4) The Registrar General shall disseminate all necessary general announcements and individual communications relating to the mass registration through appropriate electronic and other messaging and media channels to the population of Samoa.

21. Registration at birth:

- (1) After the date of mass registration publicly notified by the Registrar General in the Savali under section 20, the Registrar General shall register in the NDIDS any child born in Samoa when advised of registering a child under the Births, Deaths and Marriages Registration Act 2002.
- (2) With every child born in any health care facility, the Director General of Health shall notify the Registrar General through NDIDS notification system for registration.

- (3) In the case of a child born outside of a health care facility, a Sui-Tamaitai o le Nuu, a Sui o le Nuu or a Minister of religion shall notify the Registrar General through NDIDS notification system.

22. Continuous registration:

- (1) Any eligible person who is not registered in the NDIDS pursuant to the mass registration under section 20 or at birth under section 21 may be registered by application to the Registrar General, and such eligible person shall do so without delay.
- (2) The Registrar General shall, by notice in the Savali, designate the means and process by which an eligible person shall be registered under subsection (1).

23. Registration of children, people with disabilities, senior citizens and certain other persons:

- (1) An eligible person who is:
 - (a) under the age of 18 years;
 - (b) a senior citizen with a disability;
 - (c) a person with disability; or
 - (d) a member of any other category of persons as may be specified by the Registrar General,must be registered by a parent, a legal guardian or a lawful administrator acting on their behalf, a Sui Tamaitai o le Nuu, a Sui-o le-Nuu or a Minister of religion of that person.

- (2) A person who is responsible for the registration of eligible persons under subsections (1)(a) to (d) must comply with sections 19(1) and (2).

24. Special measures:

The Registrar General shall provide for special measures in the NDIDS systems and at its service centres to facilitate provision of information to, registration in the NDIDS of, and where applicable issuance of ID credentials to a person referred to in section 23.

25. Information about processing of an individual's personal data:

Before registering an eligible person, the Registrar General shall inform the eligible person, or any parent, legal guardian, lawful administrator or family member lawfully acting on behalf of the eligible person, of the following details:

- (a) contact information for the Office of the Registrar General which may be used to pose questions to and otherwise communicate with the Registrar General with respect to the NDIDS and personal data relating to the eligible person;
- (b) the purpose of collection of the personal data and use by the NDIDS to register the person and to provide a means of identification and authentication under this Act;
- (c) what personal data may be accessed by or disclosed to any person or entity other than the Registrar General;

- (d) the types of persons or entities to whom or to which such personal data may be accessed or disclosed;
- (e) the purpose, manner and duration of access or disclosure, and processing of such personal data and restrictions applying it;
- (f) how long the personal data will be stored;
- (g) whether any profiling or automated decision-making processes may be applied to the personal data;
- (h) how the registered person, or a parent, legal guardian, lawful administrator or family member lawfully acting on behalf of the registered person, may lodge a grievance or seek redress in relation to any improper use of the personal data; and
- (i) the registered person's rights under section 51 and under the Ombudsman (*Komesina o Sulufaiga*) Act 2013.

PART 4

CIVIL REGISTRATION SYSTEM AND PASSPORT SYSTEM

26. Interoperability and integration:

- (1) The Registrar General and the Chief Executive Officer responsible under the Passports Act 2008 must arrange for integration or interoperability, as required, among the Identity Database, the Register of Births, Deaths and Marriages and the passport database under the Passports Act 2008.
- (2) The purpose of integration or interoperability, as applicable, under subsection (1) shall be to:
 - (a) enable the Identity Database to access data about a person's held in the Register of Births, Deaths and Marriages and passport database to support the complete and accurate registration of person's in the Identity Database in accordance with section 28(1)(a);

- (b) enable the use of biographical data and biometric data about person's held in the Identity Database in connection with issuance of passports to such individuals, the renewal of such passports, and complete and accurate management of the passports database under the Passports Act 2008; and
 - (c) record and use a person's SDINs or associated tokens in the civil registration system and the passport database.
- (3) Access to and sharing of personal data between databases under subsection (1) shall be restricted to the purposes provided in subsection (2) and ancillary purposes.
- (4) The Registrar General and the Chief Executive Officer responsible under the Passports Act 2008 shall ensure that the exchange and transmission of personal data among the Identity Database, the Register of Births, Deaths and Marriages and the passport database pursuant to this Act, and any other processing of such personal data by or on behalf of such databases, are subject to security, integrity and confidentiality in accordance with section 46.

PART 5
IDENTITY DATABASE

27. Identity Database:

- (1) The Registrar General must establish and maintain the currency of an electronic register, to be known as the Identity Database.
- (2) The Identity Database shall have the purpose of enabling identification and authentication of registered person in accordance with this Act.
- (3) The Identity Database shall contain in digital form only the following data relating to registered person, where applicable and available:
 - (a) SDIN and any associated token;
 - (b) name;
 - (c) date of birth;
 - (d) place of birth;
 - (e) sex;
 - (f) home address;
 - (g) names of parents including by adoption;
 - (h) date of death; and
 - (i) data relating to issued, revoked or cancelled ID credentials.
- (4) The Identity Database shall not contain any biometric data or data that directly identifies the individual's race, religion, ethnicity, language, income or medical history.

28. Sources of data in the Identity Database:

- (1) The Registrar General may obtain and verify data about individuals for the Identity Database from:
 - (a) subject to subsection (2), the civil registration system and passports database in accordance with section 26(1);
 - (b) documents, biographical data and other information submitted in connection with the individual's registration in the Identity Database in accordance with Part 3; and
 - (c) such other source as the Registrar General may prescribe after considering the reliability of the source of the data.
- (2) The Registrar General shall, by notice in the Savali, designate dates after which the Registrar General shall begin to obtain data about individuals from the civil registration system and passports database.

29. Use of and access to data in the Identity Database:

- (1) The data in the Identity Database shall be used to enable relying parties to identify and authenticate registered person in accordance with Part 6.
- (2) Subject to subsection (3), relying parties may make inquiries of the Registrar General as to the data in the Identity Database about a registered person for the purposes of provision of services to or entering into transactions with such individual, and for ancillary and closely related functions.

- (3) The Registrar General shall provide data requested under subsection (2) only:
 - (a) with the consent of the individual concerned; and
 - (b) pursuant to a memorandum of understanding or other agreement between the Registrar General and the relying party concerned.
- (4) Subject to the provisions of this Act and regulations made under it, the Government Statistician may access data in the Identity Database for the purpose of the generation, collection, analysis, certification or publication of statistics under the Statistics Act 2015.
- (5) The Registrar General shall grant access to personal data in the Identity Database only in accordance with this Act and to the extent and in the manner necessary for the purpose for which access is granted.

30. Updating biographical and biometric data:

- (1) The Registrar General shall provide an easily accessible means for registered person to update and correct biographical and biometric data held by the NDIDS that is out of date, incomplete or inaccurate.
- (2) A registered person must update biographical data previously submitted to the NDIDS so that it remains correct at all times.

- (3) The Registrar General may require updating of photographic images of a registered person's face in the Biometric Database and displayed or stored on or in connection with ID credentials every 10 years or such longer period as the Registrar General may specify.
- (4) A registered person's failure to update his or her biographical or biometric data shall not result in the deactivation or suspension of his or her SDIN or ID credential.

PART 6

IDENTIFICATION AND AUTHENTICATION

31. Samoa Digital Identification Number and tokens:

- (1) Upon registration under Part 3, the Registrar General shall assign to the individual a Samoan Digital Identification Number ("SDIN").
- (2) In addition to the assignment of a SDIN, the Registrar General may issue a token associated with such SDIN for use in place of such SDIN in order to reduce risk to privacy and security of personal data and the integrity and reliability of the NDIDS.
- (3) A SDIN and any associated token shall be a unique number comprising:
 - (a) a randomly generated number comprising a number of digits prescribed by regulations; and
 - (b) an additional one (1) or more digits to serve as a checksum which shall be calculated from the randomly generated number pursuant to a formula prescribed by regulations.

- (4) The formula for calculating the checksum shall be set with a view to reducing risk of human and other error in the writing, copying, transposition, recording, communicating and other processing of the SDIN or associated token, as applicable.
- (5) No digit or combination of digits in the SDIN or any associated token shall be derived from, intentionally signify or bear any relation to any personal data about the registered person to whom the SDIN or associated token is issued.
- (6) The Registrar General shall upon registration notify the individual, or parent, legal guardian, lawful administrator or family member lawfully acting on his or her behalf, of his or her SDIN and the associated token.
- (7) A SDIN or associated token assigned to a registered person shall not be assigned to another individual, even after the registered person is deceased or the number has been deactivated.
- (8) Subject to subsection (7) and section 32, a registered person shall have the same SDIN for the duration of his or her life.

32. Deactivation of SDINs and tokens:

- (1) The Registrar General shall deactivate a registered person's SDIN:
 - (a) within 28 days after the individual's death is registered in the civil registration system; or
 - (b) promptly if the Registrar General considers that the integrity and reliability of the NDIDS has been undermined in relation to that SDIN as a result of the manner of its issuance, a personal data breach or other breach of data security.

- (2) The Registrar General shall deactivate a token:
 - (a) immediately if the associated SDIN has been deactivated;
 - (b) promptly if the Registrar General considers that the integrity and reliability of the NDIDS has been undermined in relation to that token as a result of the manner of its issuance, a personal data breach or other breach of data security; or
 - (c) at such time as the Registrar General considers convenient for the management of the NDIDS taking into account use by third parties of the token in identifying registered person.
- (3) The Registrar General shall:
 - (a) ensure that the civil registration system and passports database are updated to reflect the deactivation of a SDIN or associated token; and
 - (b) notify any relevant relying parties of the deactivation of a SDIN or associated token.
- (4) In response to any request relating to identification or authentication with respect to a deactivated SDIN or associated token, the Registrar General shall notify the relying party that the SDIN or token has been deactivated.

- (5) The Registrar General shall establish procedures for deactivation of SDINs of deceased individuals, including without limitation those deceased overseas, taking into account of the notification of deaths under the Births, Deaths and Marriages Registration Act 2002.

33. Status of the SDIN and associated token:

- (1) All Ministries and public bodies, civil societies and private sector, banks, other financial institutions and any other entities required by law or regulation to identify or authenticate individuals shall, subject to authentication in accordance with this Part 6, accept the SDIN or an associated token as sufficient proof of identity of the relevant registered person for their respective purposes.
- (2) Acceptance of the SDIN or an associated token shall not be withheld due to the non-presentation of an ID credential.
- (3) All entities and natural persons that are not subject to subsection (1):
 - (a) have no obligation under this Act to rely upon the SDIN or an associated token as a means of identification or obtaining personal data; and
 - (b) may not refuse an individual a service or a transaction due to non-provision of a SDIN or an associated token, or non-presentation of an ID credential.

34. ID credential:

- (1) The Registrar General may issue ID credentials to a registered person but only if they are 18 years and above.
- (2) Subject to subsection (4), the Registrar General shall determine and may modify the items of data that shall be:
 - (a) displayed on a physical ID credential; and
 - (b) included in or associated with any electronic ID credential.
- (3) In considering what items of data may be stored electronically on any ID credential, the Registrar General shall consider the utility of such storage and the risk to and protection of privacy and security of such data.
- (4) A physical ID credential may display on its face the following data and no other data:
 - (a) the individual's name;
 - (b) the individual's SDIN or an associated token or both;
 - (c) the individual's date of birth;
 - (d) an image of the individual's signature; and
 - (e) a photographic image of the individual's face.
- (5) The Registrar General may as prescribed by regulations allow ID credentials to be readable by an electronic device and for that purpose to include an embedded microchip, QR code, bar code or other technology recording the relevant data.

35. Registered person's responsibility for the ID credential:

- (1) A registered person to whom a physical ID credential is issued must secure its safety and preserve it in good form.
- (2) A registered person using a device on which a digital ID credential is stored must take appropriate measures to prevent another person accessing and using the ID credential except in accordance with this Act and any regulation made under it.
- (3) A registered person shall promptly notify the Registrar General if he or she has reason to believe that:
 - (a) his or her physical ID credential has been lost, stolen, damaged or destroyed; or
 - (b) his or her electronic ID credential has been accessed without the individual's permission, or has been tampered with.

36. Cancellation of ID credentials:

- (1) The Registrar General shall cancel an ID credential if:
 - (a) the associated individual's SDIN, or an associated token on or in the ID credential, is deactivated;
 - (b) duplicative physical ID credentials were issued in relation to the same individual;
 - (c) the Registrar General has reason to believe that the ID credential was lost, stolen, damaged or destroyed, or has been obtained or accessed without permission or tampered with;
or

- (d) the Registrar General considers it likely that the ID credential was issued in reliance on false information or is likely to be used in a manner that undermines the integrity and reliability of the NDIDS.
- (2) When the Registrar General cancels an ID credential:
 - (a) the Registrar General shall notify the concerned individual of the cancellation of his or her ID credential and the individual must promptly return any physical ID credential to the Registrar General;
 - (b) the NDIDS shall not authenticate an individual relying on the cancelled ID credential; and
 - (c) the Registrar General shall notify relying parties seeking to use the authentication function and to rely on the cancelled ID credential in that regard that the ID credential has been cancelled.

37. Authentication function:

- (1) The Registrar General shall establish and operate authentication functions in the NDIDS.
- (2) The Registrar General shall establish procedures, protocols and standards for authentication to be implemented in the NDIDS and used by relying parties, to be prescribed by Regulations.

- (3) The NDIDS must store records of the use of the authentication function, including authentication requests and transactions, and metadata, including date stamps, search logs and audit trails, only to the extent and for so long as is required for the effective functioning, monitoring, auditing and security of the NDIDS, and in any event for no longer than two (2) years.

38. Biometric database:

- (1) The Registrar General shall establish and maintain an electronic database for the collection, storage and use of biometric data relating to a registered person for the purposes of authentication in accordance with this Act, which shall be known as the Biometric Database.
- (2) Except as otherwise provided in this Act, the NDIDS shall link the biometric data of a registered person with his or her SDIN or an associated token for the purpose and only such purpose of authenticating a registered person.
- (3) The Registrar General shall ensure that biometric data held in the Biometric Database and any link between such biometric data and the relevant SDIN or token shall be subject to strict administrative and technical cybersecurity and other data security measures as prescribed by Regulations.

- (4) The NDIDS shall hold data stored under subsections (1) and section 37(3) each in its own database separate from the other and separate from the Identity Database and access to such data shall be limited to specifically authorised personnel requiring access for the purpose of ensuring the effective functioning, monitoring and auditing of the authentication function of the NDIDS.

39. Use of authentication:

- (1) Subject to subsection (4), relying parties may request the use of the authentication function of the NDIDS, as described in section 37, in accordance with this Act and technical requirements and procedures prescribed by regulations.
- (2) Subject to subsection (4), relying parties required by law or regulations to obtain and store data about individuals that is held in the Identity Database may access such data from the NDIDS for that purpose.
- (3) The procedures for authentication of registered persons and obtaining personal data from the Identity Database shall be prescribed by regulations.

- (4) Relying parties may not access the authentication function of the NDIDS or obtain or store personal data about registered persons without their consent.
- (5) Relying parties must allow alternative means for a person who has not been registered or is otherwise unable to produce an SDIN, token, ID credential or is unable to be authenticated by the NDIDS to identify himself or herself and prove such identity for such relying parties' purposes.
- (6) The absence of an SDIN, token, ID credential or ability to be authenticated by the NDIDS may not be used as a basis for denying a service or transaction for other reasons.

40. Relying parties:

- (1) Entities and natural persons shall be eligible to be relying parties if they are:
 - (a) Ministries and public bodies and any other agency required by law or regulation to identify individuals for the purpose of providing services to or entering into other transactions with them;
 - (b) financial institutions required under the Money Laundering Prevention Act 2007 to identify and verify individuals; and
 - (c) other private entities and natural persons required by law or regulation to identify individuals or collect any of the data about them that is held in the Identity Database in connection with the provision of services to or entering into other transactions with such individuals.

- (2) The Registrar General shall provide access to the authentication function of the NDIDS only to an entity or natural person that the Registrar General has verified:
 - (a) is eligible to be a relying party under subsection (1); and
 - (b) has implemented the necessary policies, procedures and administrative and technical readiness to assume the responsibilities and obligations of a relying party under this Act and any regulation made under it.
- (3) Entities and natural persons seeking access to the authentication function of the NDIDS shall:
 - (a) notify the Registrar General of the basis of their eligibility;
 - (b) specify to the Registrar General the reason for and nature of the access they seek to the authentication function of the NDIDS; and
 - (c) provide such information as is required by regulation or otherwise by the Registrar General in order to determine whether the entity or natural person should receive the requested access and the extent of access it should be provided.
- (4) The Registrar General shall provide a relying party access to the authentication function of the NDIDS only in such manner and to such extent as is necessary for the relying party to meet its obligations under the law or regulation that is the basis of its eligibility to be a relying party.

- (5) Procedures for requests and approval of eligibility and access under this section and section 41 shall be prescribed by regulations.
- (6) The Registrar General shall:
 - (a) publish the name of each relying party in the Savali upon its recognition as such;
 - (b) publish in the Savali the suspension or termination of access of a relying party; and
 - (c) maintain an updated list on the website of the Bureau of all relying parties that have not been terminated, and indicating whether any has been suspended.

41. Relying party compliance with this Act:

- (1) Relying parties shall report to the Registrar General on a regular basis and respond to individual information requests with respect to compliance with each of their obligations under this Part, Parts 7 and 8 and any regulations made under this Act.
- (2) The Registrar General may notify any relying party that the Registrar General has reason to believe that the relying party is not in compliance with this Act or any regulations made under this Act and order such relying party to comply with the Act.
- (3) The Registrar General may with or without notice suspend or terminate the right of any relying party to access the authentication function of the NDIDS or data in the Identity Database if:

- (a) the Registrar General has reason to believe that the relying party is no longer eligible under section 40; or
- (b) such relying party does not comply with any provisions of this Act, regulations, or any order of the Registrar General.

42. Exchange of data for authentication:

- (1) The Registrar General shall determine the data that a relying party shall collect, transmit to the NDIDS and otherwise process in order for the NDIDS to authenticate an individual, and the manner of such collection, transmission and processing.
- (2) Information to be collected, transmitted and otherwise processed under subsection (1) shall be limited to the minimal set of data that the relying party requires to perform its functions and establish any transaction costs and that the NDIDS requires to authenticate the individual.

43. Information about authentication:

Before initiating an authentication request, relying parties must disclose to the individual:

- (a) the nature of the personal data that may be shared with the relying party for the purposes of authentication;

- (b) the purposes for which the relying party shall process the personal data; and
- (c) any available alternative means of authentication available to the individual.

44. Alternative procedures:

- (1) The Registrar General shall establish reasonable alternative procedures to apply in case of failure of the NDIDS or the recording or transmission of biometric or biographical data.
- (2) The purpose of alternative procedures under subsection (1) shall be to ensure that individuals and relying parties shall not be prejudiced if they are unable to use the SDIN, ID credential, authentication or biometric or biographical data for no fault of their own when accessing or providing services or carrying out transactions.

PART 7

PROTECTION AND MANAGEMENT OF DATA

45. Data storage and usage:

The Registrar General and relying parties must ensure that personal data processed in connection with this Act is:

- (a) collected only to the extent and for the purposes specified in this Act and regulations made under it and not further processed in a way incompatible with those purposes;
- (b) adequate, relevant and limited to the minimum necessary for the purposes for which the personal data was collected or further processed;

- (c) retained for no longer than is necessary to achieve the purpose for which the personal data was collected or further processed; and
- (d) accurate, complete, not misleading and, where necessary, kept up to date having regard to the purposes for which the personal data was collected or is further processed.

46. Security, integrity and confidentiality:

- (1) The Registrar General, relying parties and data processors shall implement appropriate technical and organisational measures to ensure the security, integrity and confidentiality of personal data in its possession or under its control in connection with this Act, including protections against accidental or unlawful destruction, loss, misuse or alteration, unauthorized disclosure or access.
- (2) In considering measures under subsection (1), the Registrar General, relying parties and any data processor shall take into account:
 - (a) the amount and sensitivity of the personal data;
 - (b) the degree and likelihood of harm to registered persons that could result from the loss, disclosure or other misuse of the personal data;
 - (c) the extent of the processing;
 - (d) the period of data retention; and
 - (e) the cost of any technologies, tools or other measures to be implemented relative to the resources of the Registrar General, relying parties and data processors.
- (3) Measures under subsection (1) may be prescribed by regulations.

47. Notification by data processors of personal data breaches:

When a personal data breach has occurred with respect to personal data being stored or otherwise processed by a data processor, the data processor shall:

- (a) notify the Registrar General or the relying party, within 72 hours after becoming aware of the breach;
- (b) describing the nature of the personal data breach including, where possible, the categories and approximate numbers of registered persons and personal data records concerned; and
- (c) respond without undue delay to all information requests from the Registrar General.

48. Notification by relying parties of personal data breaches:

When personal data breach has occurred with respect to personal data being stored or otherwise processed by a relying party, the relying party shall:

- (a) notify the Registrar General of the breach within 72 hours after becoming aware of it;
- (b) describing the nature of the personal data breach including, where possible, the categories and approximate numbers of registered persons and personal data records concerned;
- (c) respond without undue delay to all information requests from the Registrar General.

49. Notification by the Registrar General of personal data breaches:

- (1) When a personal data breach has occurred in the NDIDS or the Registrar General is informed of a data breach under section 47 or 48, and the personal data breach is likely to result in a high risk under section 50(3) to the rights of a registered person:

- (a) the Registrar General shall communicate the personal data breach to the registered person without undue delay in plain and clear language, including advice about measures the individual could take to mitigate effectively the possible adverse effects of the data breach; and
 - (b) if a direct communication to the individual under paragraph 0 would involve disproportionate effort or expense or is otherwise not feasible, the Registrar General may instead make a public communication in one (1) or more widely-used media sources such that affected registered persons are likely to be informed.
- (2) A personal data breach under sections 47, 49 and this section must be reported to the National Identification Advisory Board by the Registrar General.

50. Requirements as to notifications and records of personal data breaches:

- (1) The notifications and communications under sections 47, 48 and 49 shall, in addition to the requirements of those sections, at least:
- (a) communicate the name and contact details of the notifying entity where more information can be obtained;
 - (b) describe the likely consequences of the personal data breach; and
 - (c) describe the measures taken or proposed to be taken to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

- (2) The 72 hour period set out in sections 47 and 48 may be extended to accommodate the legitimate needs of law enforcement or as reasonably necessary to implement measures required to determine the scope of the breach.
- (3) In evaluating whether a personal data breach is likely to result in a high risk to the rights of an individual under section 49, the Registrar General shall take into account:
 - (a) the likely effectiveness of any technical and administrative measures implemented to mitigate the likely harm resulting from the personal data breach, including any encryption or de-identification of the data;
 - (b) any subsequent measures taken by the relying party or any data processors to mitigate such risk; and
 - (c) the nature, scope and sensitivity of the personal data involved.
- (4) The Registrar General, relying parties and data processors shall keep a record of all personal data breaches, comprising the facts relating to the personal data breach, its effects and the remedial action taken in a manner that enables it to demonstrate that it has complied with this section and sections 48, 49 and 50, as applicable.
- (5) Where, and in so far as, it is not possible to provide information under this section at the same time, the information may be provided in phases without undue further delay.

PART 8

REGISTERED PERSON'S RIGHTS

51. Rights of registered persons:

- (1) A registered person has the right to obtain from the Registrar General or a relying party, without constraint or unreasonable delay and at no expense:

- (a) confirmation as to whether or not the NDIDS or a data processor acting on its behalf is storing or otherwise processing personal data relating to the individual;
- (b) confirmation as to whether a relying party or a data processor acting on its behalf is storing or otherwise processing personal data relating to the individual obtained from the NDIDS;
- (c) a copy of such personal data in a paper-based or commonly used electronic format;
- (d) correction, or if correction is not feasible or suitable, deletion of any such personal data that is inaccurate, out of date, incomplete or misleading;
- (e) deletion of any such personal data which the NDIDS or the relying party, respectively, or any such data processor, is not entitled to retain; and
- (f) detailed information relating to -
 - (i) what personal data from the NDIDS the Registrar General or relying party, or a data processor acting on its behalf, as applicable, has permitted to be accessed;
 - (ii) when such personal data was accessed;

- (iii) by whom it was accessed and to whom the personal data has been disclosed;
 - (iv) the purpose, manner and duration of access and processing of such personal data and restrictions applied to it;
 - (v) for how long the personal data will be stored;
 - (vi) whether any profiling or automated decision-making processes is being applied to the personal data; and
 - (vii) how to lodge a grievance or seek redress in relation to any improper use of the data under section 53.
- (2) The Registrar General and relying parties shall implement measures necessary to ensure that a registered person is able to effectively exercise the rights set out in subsection (1).

52. No right of citizenship:

The registration of a person who is a non-citizen in the NDIDS, and the issuance to that person of a SDIN, associated token or an ID credential is not evidence, and must not confer any right or any expectation of any right, in relation to a Samoan citizenship.

**PART 9
GRIEVANCES**

53. Grievances:

- (1) A registered person may lodge a grievance with the Registrar General and to have that grievance determined.

- (2) The procedure for a grievance lodged and the procedure for determining grievances under subsection (1) are to be prescribed by regulations.

PART 10

MISCELLANEOUS

54. Non-compliance by relying parties and data processors:

- (1) A relying party or a data processor who fails to comply with any provision of this Act or regulations made under it is liable on conviction to a fine not exceeding 500 penalty units for the first failure to comply, and 1000 penalty units for any subsequent failures to comply.
- (2) The Registrar General may at any time require relying parties and data processors to provide any information relating to their activities under this Act with a view to verifying their compliance with the Act.
- (3) Where the Registrar General has reason to believe that a relying party or data processor has not complied with this Act or regulations made under this Act, the Registrar General shall notify the appropriate authority and assist it in any investigation.

55. Personation:

- (1) A person commits an offence who knowingly registers falsely in the NDIDS as another person, whether the latter is alive or dead, by submission of false biographical or biometric data, or attempts to do so.

- (2) A person commits an offence who knowingly claims falsely to be another person associated with an SDIN or an associated token or identified by an ID credential, whether the latter is alive or dead, or attempts to do so.
- (3) A person commits an offence who changes or attempts to change any biographical or biometric data of a registered person used in the NDIDS with the intention of causing harm or mischief to such registered person, or with the intention of appropriating his or her identity in the NDIDS.
- (4) A person commits an offence who not being authorised to collect biographical and biometric data under this Act, by words, conduct or demeanour pretends that he or she is authorised to do so.
- (5) Without prejudice to section 215(1) of the Crimes Act 2013:
 - (a) a person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding five (5) years; and
 - (b) a person convicted of an offence under subsections (2), (3) or (4) is liable on conviction to a fine not exceeding 125 penalty units or to imprisonment for a term not exceeding 10 years.

56. Unauthorised disclosure of data:

- (1) A person employed or otherwise contracted or engaged for the purposes of this Act by the Registrar General under section 12, a relying party, a data processor or any other person commits an offence if, without lawful excuse, he or she discloses, transmits, copies or otherwise disseminates any personal data collected or otherwise processed in the course of registration or authentication to any person not authorised under this Act or regulations made under this Act or in contravention of any arrangement entered into under this Act.
- (2) Subsection (1) does not apply to disclosure, transmission, copy or other dissemination made under the authority of a law or court order.

57. Unauthorised access, tampering and damage:

A person not being duly authorised by the Registrar General, a relying party or data processor to do so, commits an offence if, without lawful excuse, he or she:

- (a) accesses or secures access to the Identity Database, the Biometric Database, the passport database, the Register of Births, Deaths and Marriages or the identification and authentication systems and records of the NDIDS or the databases and systems of relying parties or data processors processing data;

- (b) downloads, copies or extracts any data from the databases and systems under paragraph (a) or stored in any removable storage medium;
- (c) introduces or causes to be introduced any virus or other computer contaminant in the databases and systems under paragraph (a);
- (d) destroys, deletes, damages or modifies any data in the databases and systems under paragraph (a);
- (e) disrupts or causes disruption of access to the databases and systems under paragraph (a);
- (f) denies or causes a denial of access to any person who is authorised to access the databases and systems under paragraph (a);
- (g) reveals any data in the databases and systems under paragraph (a) in contravention of this Act; or
- (h) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code.

58. Penalties:

- (1) A person who commits an offence under section 55, 56 or 57 is liable on conviction to a fine not exceeding 150 penalty units or to imprisonment not exceeding seven (7) years or both.
- (2) A person who commits an offence under this Act or any regulations made under this Act for which no specific penalty is provided for is liable on conviction to a fine not exceeding 150 penalty units or to imprisonment not exceeding seven (7) years or both.

59. Regulations:

The Head of State, acting on the advice of Cabinet, may make Regulations to give effect to or for the purposes of this Act, and in particular may make the following regulations:

- (a) subject to the approval of the National Revenue Board, prescribing fees or a basis for calculating fees for the purposes of this Act;
- (b) generally prescribing any matter, form, or thing required, authorised, or necessary to be prescribed for the purposes of this Act and for its effective and efficient administration;
- (c) prescribing any remuneration for services carried out by any person under this Act; and
- (d) procedures relating to the lodgement and determining of grievances.

60. Consequential amendments:

- (1) The Births, Deaths and Marriages Registration Act 2002 is amended as follows:
 - (a) in section 3(3) substitute “In the administration of this Act and the National Digital Identification Act 2023, the Registrar General has the powers conferred by this Act and the National Digital Identification Act 2023, and cannot exercise his or her powers as the Government Statistician in the carriage of his or her duties as the Registrar General under this Act and the National Digital Identification Act 2023”;
 - (b) in section 8(1) insert “and the National Digital Identification Act 2023” after “this Act”;
 - (c) after section 69(6) insert:

- “(7) The Registrar General must record in the Register each Samoan Digital Identification Number or associated token issued pursuant to the National Digital Identification Act 2023 in respect of an individual whose birth, death, marriage and change of name is recorded in the Register.”;
- (d) after section 78(4) insert:
- “(5) From dates fixed by notice published in the Savali by the Registrar General, each certificate issued by the Registrar General under this Act shall display the Samoan Digital Identification Number or an associated token issued pursuant to the National Digital Identification Act 2023 with respect to each individual to whom such certificate relates.”;
- (e) in section 86(1) insert “and the National Digital Identification Act 2023” after “this Act”;
- (f) in section 92(2) insert “and the National Digital Identification Act 2023” after “this Act”;
- (g) in section 93 insert “and the National Digital Identification Act 2023” after “this Act” wherever occurring.
- (2) In the Statistics Act 2015, for section 7(1), substitute:

- “(l) to manage the National Digital Identification System, including the Registry of Births, Deaths and Marriages, the Identity Database, the Biometric Database and identification and authentication systems under the National Digital Identification Act 2023 and the Births, Deaths and Marriages Registration Act 2002, and any other register, if so directed by the Minister.”.
- (3) The Tax Administration Act 2012 is amended as follows:
- (a) in section 2(1), insert in the correct alphabetical order the following:
- ““Samoa Digital Identification Number” or “SDIN” means a Samoa Digital Identification Number issued under the National Digital Identification Act 2023”;
- (b) after section 12(6) insert:
- “(7) The Commissioner may, for the purposes of identification and cross-checking, require a taxpayer to use a SDIN or associated token instead of or in addition to a TIN if such taxpayer is eligible to register in the National Digital Identification System under the National Digital Identification Act 2023.”; and

(c) for section 14 substitute:

“14. Quotation of TIN or SDIN or associated token:

The Commissioner may require a taxpayer to state his or her TIN or SDIN or associated token (if such taxpayer is eligible to register in the National Digital Identification System under the National Digital Identification Act 2023) or both in any tax return, notice, or other document filed, lodged, or used for the purposes of a tax law.”.
